

**NORTH CAROLINA CRIMINAL JUSTICE
EDUCATION AND TRAINING STANDARDS COMMISSION**

MINUTES

DATE: August 22, 2014

TIME: 9:00 A. M.

LOCATION: Wake Technical Community College - Public Safety Education Campus
Raleigh, North Carolina

SUBMITTED BY: Steven G. Combs
Director

MEMBERS PRESENT

Mr. John Glenn
Chief Ira Jones
Mr. Eddie Caldwell
Lieutenant Yolanda Sparrow
Dr. Robert Ruth
Chief Scott Cunningham
Chief Wrenn Johnson
Mr. Ray Davis
Mr. Brent Herron
Captain Lee Farnsworth
Mr. James Festerman
Chief Bill Hollingsed
Ms. Robin Pendergraft
Chief Tim Ledford
Chief Patricia Bazemore
Mr. Charles Johnson
Ms. Tracy McPherson
Mayor Bobby Kilgore
Mr. Steve Johnson
Chief Tim Hayworth
Mr. Johnny Hawkins
Mr. Trey Robison
Chief Allen Smith
Mr. Jeff Welty
Ms. Diane Isaacs
Colonel Bill Grey
Ms. Angela Williams

MEMBERS ABSENT

Corporal Melissa Hinnant
Mr. Bob Myrick

I. CALL TO ORDER

Commission Chairman John Glenn brought the meeting to order. Ms. Donna Byrd, Clerk to the Commission, administered the Oath of Office to the following reappointed members: Mr. Eddie Caldwell and Mr. Lee Farnsworth, who represent the North Carolina Law Enforcement

Officers' Association; Chief William "Bill" Hollingsed of the Waynesville Police Department, who represents the North Carolina Police Executives Association; and, Mr. Ray Davis, who was reappointed by Attorney General Roy Cooper. He read the Ethics Statement into the minutes. Following the roll call, Chairman Glenn declared that a quorum was present. He extended a warm welcome to the visitors.

Chairman Glenn personally thanked Ms. Betty Reynolds for hosting the Commission at the Wake Technical Community College Public Safety Education Campus.

II. PRESENTATION OF RESOLUTION

Chairman Glenn reported that the Executive Committee had approved a Resolution in Memoriam for Officer Robert Bingaman of the Asheville Police Department, who died in the line of duty on October 29, 2013. Chairman Glenn read the Resolution in Memoriam into the minutes.

MOTION was made by Commissioner Eddie Caldwell to approve the Resolution in Memoriam for Robert Bingaman; seconded by Commissioner Ira Jones. The MOTION carried unanimously.

Chairman Glenn reported that the Executive Committee had approved a Resolution of Appreciation for Stephanie Freeman, former Commissioner representing the North Carolina Law Enforcement Training Officers' Association. He proceeded to read the Resolution of Appreciation into the minutes.

MOTION was made by Commissioner Caldwell to approve the Resolution of Appreciation for Stephanie Freeman; seconded by Commissioner Ray Davis. The MOTION carried unanimously.

Ms. Freeman stated she had enjoyed working with the Commission membership and that it had been an honor to serve on the Commission as well as Chairperson for the Planning and Standards Commission.

Next, Chairman Glenn introduced Chief Randy Walston of the Vadant Company Police Department. Chief Walston wanted to personally thank Ms. Sara Wiggins for her assistance in the merging of two agencies. He stated that Ms. Wiggins went far and beyond her duties to get this transition completed in a prompt manner. Chief Walston presented her with an appreciation award.

III. AWARDING OF ADVANCED CERTIFICATES [Agenda Memorandum No. 03-14]

Chairman Glenn reported that staff had evaluated the applications of all one hundred and twenty-five (125) candidates. There were one hundred and eleven (111) candidates for the Advanced Law Enforcement Certificate and fourteen (14) candidates for the Advanced Criminal Justice Certificate. He noted that each of these applicants had met the requirements to receive the Advanced Certificate and the Advanced Certificate pin.

MOTION was made by Commissioner Lee Farnsworth that the Commission award the Advanced Law Enforcement Certificate or Advanced Criminal Justice Certificate to each named individual. The MOTION was seconded by Commissioner Steve Johnson and carried unanimously.

The following individuals were present to personally receive their Advanced Law Enforcement and Advanced Criminal Justice Certificates:

Alison Delaney	Carrboro Police Department Presented by Chief Walter Horton and Lieutenant Clifford Webster
Brett R. Walsh	Fuquay Varina Police Department Presented by Captain Robert Adams
Joshua Earl Glenn	Hamlet Police Department Presented by Chief Rodney Tucker and Captain Scott Waters
Glenn Carnell Newell	NC A&T Police Department Presented by Commissioner Brent Herron
Gale Phillips Wilson, Jr.	N.C. Wildlife Resource Commission Presented by Commissioner Glenn
Ron E. Ellington, Jr.	N.C. Wildlife Resource Commission Presented by Commissioner Glenn
Kenneth Harold Hundley	Smithfield Police Department Presented by Commissioner Glenn
Darrell Lee Blanton	Wallace Police Department Presented by Captain David Morgan
Byron Carr	N.C. Division of Adult Corrections Presented by Commissioner Glenn
Rodney Patterson	N.C. Division of Adult Corrections Presented by Commissioner Glenn
Shawn Smith	Cary Police Department Presented by Chief Pat Bazemore

IV. ELECTIONS

A. Chairman

Vice-Chairman Eddie Caldwell presided over the Commission to take nominations for the office of Chairman.

MOTION was made by Commissioner Davis to nominate John Glenn as Chairman of the North Carolina Criminal Justice Education and Training Standards Commission. The MOTION was seconded by Commissioner James Festerman and carried unanimously.

B. Vice-Chairman

Chairman Glenn presided over the remainder of the nominations.

MOTION was made by Commissioner Bob Ruth to nominate Eddie Caldwell as Vice-Chairman of the North Carolina Criminal Justice Education and Training Standards Commission. The MOTION was seconded by Commissioner Farnsworth and carried unanimously.

C. Standing Committee Chairpersons

1. Education and Training Committee

MOTION was made by Commissioner Farnsworth to nominate Wrenn Johnson as Chairperson of the Education and Training Committee. The MOTION was seconded by Commissioner Steve Johnson and carried unanimously.

2. Planning and Standards Committee

MOTION was made by Commissioner Jeff Welty to nominate Scott Cunningham as Chairman of the Planning and Standards Committee. The MOTION was seconded by Commissioner Allen Smith and carried unanimously.

3. Probable Cause Committee

MOTION was made by Commissioner Jones to nominate Ray Davis as Chairman of the Probable Cause Committee. The MOTION was seconded by Commissioner Bobby Kilgore and carried unanimously.

V. MINUTES OF MAY 22, 2014 MEETING

Chairman Glenn entertained a motion to approve the minutes of the previous Commission meeting.

MOTION was made by Commissioner Smith that the Commission approve the minutes of the May 22, 2014 meeting as mailed. The MOTION was seconded by Commissioner Davis and carried unanimously.

VI. STANDING COMMITTEE REPORTS

A. Executive Committee - Chairman Eddie Caldwell

Chairman Caldwell reported that the Executive Committee met on Thursday, August 21, 2014, at the Wake Technical Community College Public Safety Training Center in Raleigh.

Chairman Caldwell stated that the Executive Committee discussed the Commission dates for next year. The new dates for 2015 are: February 12-13, 2015, May 20-21, 2015, August 20-21, 2015 and November 19-20, 2015. February meeting tentatively scheduled to be held at OSDT in Apex. The May – November meetings to be held at the Wake Technical Community College Public Safety Education Campus.

Chairman Caldwell asked Director Steven Combs to give an update on the Criminal Justice Standards Division. A copy of his written report is attached.

Chairman Caldwell asked Director Mark Strickland to give an update on the Justice Academy. A copy of his written report is attached.

B. Education and Training Committee - Chairperson Wrenn Johnson

Chairperson Johnson reported that the Education and Training Committee met on Thursday, August 22, 2014 at the Wake Technical Community College, Public Safety Education Campus, Raleigh, North Carolina.

Chairperson Johnson stated that on behalf of the Specialized Driver Instructor Advisory Committee, Stacy Holloman proposed a rule change for 12 NCAC 09B .0227 Specialized Driver Instructor Training. After completing the pilot testing of the course, the Committee requested that the course hours be changed from 35 hours to 48 hours. The Committee approved this request.

MOTION was made by Commissioner Wrenn Johnson that the Commission authorize the Planning and Standards Committee to conduct a rule-making hearing to amend 12 NCAC 09B .0227 - Specialized Driver Instructor Training in order to change the course hours from 35 to 48 hours as follows: Orientation (1 hour); BLET Lesson Plan Review (4 hours); General Mechanical Knowledge (2 hours); Before Operation Inspection (1 hour); Laws of Natural Force & Operating Characteristics (2 hours); Driver Practicum/Pre-Qualification (32 hours); Legal & Operational Considerations for the Driver Instructor (4 hours); Course Description Packet & Administration Code Review (1 hour); and, Course Review (1 hour); seconded by Commissioner Robin Pendergraft. The MOTION carried unanimously.

Mr. Holloman requested an extension of previous granted pilot authority for the N.C. Justice Academy and the N.C. State Highway Patrol to deliver the Specialized Driver Instructor Training Course at the 48 hours minimum until a rule change of 12 NCAC 09B .0227 is modified and implemented. The Committee approved this request.

Chairperson Johnson stated that on behalf of the BLET Revision Committee, Jennifer Fisher proposed a revision to the Physical Fitness Training lesson plan. The Committee recommended a revision of the Police Officer's Physical Abilities Test (POPAT) in order to align the test with the most current job task analysis. A project and legal review was completed by the Joint Steering Committee and that Committee has agreed with the recommendation. The revised POPAT for the BLET programs will begin on or after July 1, 2015.

Mr. John Combs revealed a video of the new testing procedures and requirements to the Committee and a detailed explanation of the revised test. Ms. Fisher explained the revisions to the lesson plan to support the revised POPAT. This revision includes the adoption of the 2013 Norms as outlined by the Cooper Institute which relates to the current Physical Fitness Assessment within the lesson plan. The Committee approved this request.

Chairperson Johnson stated that on behalf of the Physical Fitness and SCAT Committee, Mr. Combs requested the following recommendations in regards to the revised POPAT in BLET: The revised POPAT, which includes all written and audiovisual materials, and the updated fitness norms published by the Cooper Institute in regards to the Physical Fitness Assessments be adopted for the current curricula and pre-qualification testing procedures in the Specialized Physical Fitness Instructor Training course, effective January 1, 2015. The updated fitness norms published by the Cooper Institute in regards to the Physical Fitness Assessment be adopted for the current pre-qualification testing procedures in the Specialized Subject Control/Arrest Techniques Instructor course, effective January 1, 2015. He reported that the Justice Academy was making plans to deliver a series of Specialized Physical Fitness Instructor Updates in the near future. He asked the Committee for guidance on the delivery requirement for the updates. The Committee agreed to allow the Academy to deliver the instructor updates as an informational program for current physical fitness instructors and school directors. He advised that attendance will not be mandatory. The Committee approved the request.

On behalf of the School Accreditation Subcommittee, Commissioner Tracy McPherson recommended the reaccreditation of the following institutions for a period of five years in accordance with 12 NCAC 09B .0200 and 12 NCAC 09C .0401 for the delivery of the Commission regulated training: renewal – College of the Albemarle – BLET, Speed Measuring Instruments, General Instructor Training; renewal – Asheville-Buncombe Community College – BLET and Speed Measuring Instruments; renewal – Cleveland Community College – BLET and General Instructor Training; renewal – High Point Police Department – Speed Measuring Instruments; renewal – McDowell Technical College – BLET and General Instructor Training; renewal – North Carolina Justice Academy – Specialized Driver Instructor Training, Specialized Firearms Instructor Training, Specialized Physical Fitness Instructor Training, Specialized Subject Control/Arrest Techniques Instructor Training, Speed Measuring Instructor Training and General Instructor Training. In addition, the Subcommittee recommended the accreditation pursuant to 12 NCAC 09C .0401 and .0402 and 09B .0200 for Accreditation – North Carolina Justice Academy – Specialized Explosives and Hazardous Materials Instructor Training. The Committee approved these requests.

Deputy Director Trevor Allen appeared before the Committee to provide information on the School Directors' Advisory Committee and its role to the Commission. Mr. Allen asked for the Committee's guidance for the role of the School Directors' Advisory Committee. The Education and Training Committee agreed to appoint a subcommittee in order to allow School Directors a voice on Commission training. The Committee asked staff to implement a plan for 2015 conference and present at the November meeting.

Mr. Allen provided an update on the North Carolina Diagnostic Assessment and Placement (NC DAP) as it relates to the BLET requirement for the student to demonstrate a 10th grade reading level before enrolling in the program.

Mr. Allen provided an update on the process for reviewing training programs as they relate to credit awarded to professional certificates. The Committee asked staff to draft a document that outlines all of the considerations and options for consideration and present at the November meeting.

Mr. Allen discussed the issue of BLET delivery sites using controlled burns of marijuana as a method of familiarizing the students with the odor. Presently, there is not a standard or requirement for the delivery of BLET. The Committee asked staff and legal staff to draft a document that outlines what the ramifications could be if a school is not doing this in accordance with the law.

Lastly, Chairperson Johnson stated that on behalf of the North Carolina National Guard, Command Chief Warrant Officer Richard Comer provided an update of the Guard's analysis of current and recent legislation as it relates to awarding credit for military service and experience towards a law enforcement officer certification. The Committee asked for additional time to review the current military training programs as they relate to BLET. Chairperson Johnson related that the Committee would revisit this issue at the November meeting.

C. Planning and Standards Committee – Commissioner Jeff Welty

Commissioner Welty stated that he was reporting the Planning and Standards Committee Report on behalf of Chairman Scott Cunningham. He noted that the Planning and Standards Committee met on Thursday, August 21, 2014 and approved the minutes of the May meeting.

Commissioner Welty reported that a rule-making hearing was conducted on amendments to the rules of the administrative code. He stated that the proposed amendments were: 09E .0105 – Law Enforcement Officer's In-Service Training Program. This rule requires annual amendment in order to update the mandatory in-service training topics for law enforcement officers. Specific changes to the 2015 topics/rule include: 09E .0105(a)(3) – Juvenile Minority Sensitivity Training: "What does it have to do with me?" (2 credits); 09E .0105(a)(4) – Domestic Violence: Teen Dating Violence (changed from 4 credits to 2 credits); and 09E .0105(a)(5) – Department Topics of Choice (changed from 8 credits to 10 credits).

Commissioner Welty reported that a series of rules related to removing testing from courses and establishing a sixty-day window after the course is complete during which course participants would get tested and that involved amendments to: 12 NCAC 09B .0202 – Responsibilities of the School Director; 09B .0205 – Basic Law Enforcement Training; 09B .0209 – Criminal Justice Instructor Training; 09B .0226 – Specialized Firearms Instructor Training; 09B .0227 – Specialized Driver Instructor Training; 09B .0232 - Specialized Subject Control Arrest Techniques Instructor Training; 09B .0233 – Specialized Physical Fitness Instructor Training; 09B .0302 – General Instructor Certification; 09B .0304 – Specialized Instructor Certification; 09B .0401 – Time Requirement for Completion of Training; 09B .0406 – Comprehensive Written Examination – Basic Law Enforcement Training; 09B .0408 – Comprehensive Written

Examination – Basic SMI Training; 09B .0413 – Comprehensive Written Examination – Instructor Training; 09B .0414 – Comprehensive Written Examination – Specialized Instructor Training; 09B .0416 – Satisfaction of Minimum Training – SMI Instructor; 09C .0211 – Pre-Delivery Report of Training Course Presentation; 09C .0403 – Reports of Training Course Presentation and Completion; 09G .0308 General Instructor Certification; 09G .0314 – Comprehensive Written Examination – Instructor Training and 09G .0414 – Instructor Training. There was discussion as to the effective date, the Community College asked for time to adjust their curriculum for the spring semester. The implementation date is January 1, 2015.

Commissioner Welty reported that amendment 12 NCAC 09F .0102 – Topical Areas (Concealed Carry Handgun Training) clarifies language of objectives within the “legal issues” section of CCH training requirements and removes the condition that only the lesson plan developed by the North Carolina Justice Academy be used for training purposes.

Commissioner Welty reported that 12 NCAC 09B .0403 – Evaluation for Training Waiver proposed amendments revises language specifying the 30-day extension period from the 1-year anniversary date of the successful completion of the state exam. The amendment defines language concerning the 96-hour legal block of training for transfer applicants and defines in-service training requirements for active duty, guard, and reserve military members in order to return to active criminal justice status.

MOTION was made by Commissioner Welty on behalf of the Planning and Standards Committee that the Commission grant rule-making authority to amend 12 NCAC 09B .0202; 12 NCAC 09B .0205; 12 NCAC 09B .0209; 12 NCAC 09B .0226; 12 NCAC 09B .0227; 12 NCAC 09B .0232; 12 NCAC 09B .0233; 12 NCAC 09B .0302; 12 NCAC 09B .0304; 12 NCAC 09B .0401; 12 NCAC 09B .0406; 12 NCAC 09B .0408; 12 NCAC 09B .0413; 12 NCAC 09B .0414; 12 NCAC 09B .0416; 12 NCAC 09C .0211; 12 NCAC 09C .0403; 12 NCAC 09G .0308; 12 NCAC 09G .0314 and 12 NCAC 09G .0414; Also, to amend 12 NCAC 09F .0102 and 09B .0403; seconded by Commissioner Melissa Hinnant. The MOTION carried.

Lastly, Commissioner Welty reported that he had spoken with one of his colleagues at the School of Government concerning recruitment and retention. He explained that they were asking for a few graduate students to assist in obtaining information for recruitment and retention. Commissioner Welty stated that in the coming months he would be able to inform the Planning and Standards Committee if the students would be available to assist in this task.

D. Probable Cause Committee - Chairman Ray Davis

Chairman Davis reported that the Probable Cause Committee met on Wednesday, August 20th and again on Thursday, August 21st.

He reported that the Committee reviewed a total of thirty (30) cases. Probable cause was found in thirteen (13) cases and no probable cause in fifteen (15) cases. Two cases were continued for additional investigation. Chairman Davis related that the Committee found probable cause in one case in which the Committee offered a lesser sanction of an “Official Written Reprimand.”

MOTION was made by Commissioner Davis that the Commission accept a lesser sanction of agreement for Memorandum Number 14/070; seconded by Commissioner Jones. The MOTION carried unanimously.

Chairman Davis concluded his report by stating that there were two officers to report on "The List of Individuals Certified Having Committed a Criminal Offense".

VII. OTHER BUSINESS

None

VIII. OLD BUSINESS

A. Old Business

None

B. Legal Counsel Report

Ms. Lauren Earnhardt distributed a document entitled "Pending Administrative Cases" for the membership's review.

C. Final Agency Decisions

Chairman Glenn noted that Mr. John Congleton, an Assistant Attorney General, would serve as the Commission's Legal Counsel for the Final Agency Decision.

Chairman Glenn read the Recusal Statement to the Commission members and reminded everyone that both the Petitioner and the Respondent would be limited to 30 minutes of oral argument.

1. Michael Keith Fox

Ms. Lauren Earnhardt presented oral argument regarding the case against Mr. Fox.

MOTION was made by Commissioner Caldwell that the Commission go into Closed Session; seconded by Commissioner Wrenn Johnson. The MOTION carried unanimously.

MOTION was made by Commissioner Charles Johnson that the Commission return to Open Session; seconded by Commissioner Johnny Hawkins. The MOTION carried unanimously.

MOTION was made by Commissioner Robin Pendergraft that the Commission adopt the Proposed Final Agency Decision by legal counsel and certify Michael Keith Fox's law enforcement officer certification; seconded by Commissioner Farnsworth. The MOTION carried. See Attachment I for the Commission's Final Agency Decision and Attachment II for the roll call vote.

2. Bilal Abdus-Salaam

Ms. Lauren Earnhardt presented oral argument regarding the case against Mr. Abdus-Salaam.

MOTION was made by Commissioner Farnsworth that the Commission adopt the Proposed Final Agency Decision as written by legal counsel; seconded by Commissioner Angela Williams. The MOTION carried. See Attachment III for the Commission's Final Agency Decision and Attachment IV for the roll call vote.

3. Garrett Dewayne Gwin

Ms. Lauren Earnhardt presented oral argument regarding the case against Mr. Gwin.

MOTION was made by Commissioner Steve Johnson that the Commission adopt the Proposed Final Agency Decision; seconded by Commissioner Farnsworth. The MOTION carried unanimously. See Attachment V for the Commission's Final Agency Decision and Attachment VI for the roll call vote.

IX. DATE OF NEXT MEETING

Chairman Glenn advised that the next Commission meeting is scheduled for November 13-14, 2014 at the Wake Technical Community College, Public Safety Education Campus.

X. MOTION TO ADJOURN

MOTION was made by Commissioner Charles Johnson that the Commission adjourn; seconded by Commissioner Lee Farnsworth. The MOTION carried unanimously.